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- 1 Taking Robert Dahl's well-known concept of a liberal democracy as a benchmark, Taiwan can be said to have completed its democratic transition with the direct elections for the National Assembly and the Legislative Yuan in 1991 and 1992¹. Since then, its democratic consolidation has made remarkable progress, especially in the realm of institution building and the emergence of a vibrant civil society. It is safe to say that authoritarianism is a thing of the past and that all relevant parties, politicians and the general public are committed to Taiwan's democratic system. However, political scandals, frequent brawls in the Legislative Yuan and the inability to pass important reform bills have made clear that although Taiwan's democracy is resilient, there is still much room for improvement or "democratic deepening". A consistent feature throughout Taiwan's political transformation has been the worrying influence of local-level clientelist networks, moneyed interests and even organised crime on Taiwan's politics.
- 2 The roots of these ills stem from the kind of democratisation Taiwan has experienced and the character of its former autocratic political system. From 1911 to 1992, the Republic of China was an authoritarian regime ruled by one party, which dominated the state and penetrated deep into economy and society. Compared to other authoritarian regimes, Taiwan's autocracy proved to be remarkably stable. This was not due to excessive coercion, but resulted from an intricate arrangement of incentives and dependencies which bound major societal forces to the leading Nationalist Party (Kuomintang, KMT).
- 3 As Chen Tung-sheng², Chen Ming-tong³ and others have shown, the KMT (or at least its politically domineering factions⁴) held on to these structures, so democratisation did not obliterate, it merely altered them. With the KMT bereft of autocratic means to control its agents, powerful (collective) actors like local clientelistic networks and large

enterprises grew in significance, and the relationship between them and the KMT turned the former patron-agent relationship into one of mutual dependence. This led to the emergence of “black gold” (*heijin*), the collusion between politicians on the one side and organised crime and big business on the other. Both helped the KMT to stay in power, but not without demanding something in return.

- 4 As factions within the KMT had realised very early, these exchanges were bound to drain the reservoir of legitimacy the party had built up by steering Taiwan’s “economic miracle”. Since its foundation in 1986 and with increased intensity before the 1992 Legislative Yuan elections, the oppositional Democratic Progressive Party (DPP) had made the fight against political corruption and organised crime a major campaign issue and had thereby pushed the KMT further into a dilemma: it had to fight corruption, organised crime and rid itself of its reliance on localist networks, while at the same time depending on these very groups for its survival.
 - 5 The DPP’s situation, of course, was quite different. The DPP had a vital interest in fundamentally changing the political rules of the game, which were tailor-made for the KMT and first barred the DPP from taking power and later from fully implementing its political agenda. Put simply, the KMT’s anti-“black gold” policies were aimed at increasing its legitimacy without changing the informal rules of the political game, while the DPP strove to create a different political environment which was more conducive to its survival.
 - 6 In line with these observations, this article combines two perspectives to highlight continuity and change between each administration’s fight against corruption, organised crime and vote buying. The first looks at policy, examining the formulation, implementation and impact of the most relevant measures taken by each administration. The other, an institutionalist perspective, explains how institutional constraints limited the relevant actors’ scope of action, resulting in outcomes often not matching the original intentions.
 - 7 This article consists of three parts. The first briefly sketches the institutional foundations of the KMT’s one-party rule and the impact of democratisation on it. The second elucidates the dilemma the KMT has faced when forced to fight the very groups it depended on for political survival. It describes the KMT’s anti-“black gold” policies and offers explanations for their superficiality, selectivity and lack of impact. The third part depicts the various anti-“black gold” measures envisioned by the Chen Shui-bian administration and examines their implementation.
- One-party rule and the emergence of “black gold”
- 8 A close look at the institutional foundations of the KMT’s five-decade-long one-party rule tells us much about the difficulties the opposition has faced in altering these structures. As they were all-encompassing, linking the state apparatus, society, big business and most relevant political actors to the KMT, but not to each other, the Taiwanese political scientist Hu Fu has aptly invoked the metaphor of an “umbrella-” structure of authoritarianism⁵. As was the case in most of the stable South-East Asian authoritarian regimes, the legitimacy of the KMT one-party state hinged on its ability to deliver monetary rents to various constituencies, to play important actors off against each other without alienating them from the regime, and to prevent splits in its leadership⁶.
 - 9 In retrospect, the KMT was able to accomplish two difficult feats: to rule by distributing financial favours without driving itself into bankruptcy, and to keep a potentially

hostile 80%-majority of the population loyal to the “alien” regime. As for the first feat, the KMT led the economic bureaucracy in implementing a model of state-led modernisation while at the same time keeping tight control over the financial sector, landed property and Taiwan’s major industrial conglomerates. Its monopoly on vital resources and its power over Taiwan’s economy allowed it to channel money without squandering it. The KMT made sure that the enterprises that benefited from its patronage stayed competitive by selectively lowering trade barriers, thereby exposing them to the world market. Also, the government passed and enforced strict laws that prohibited government officials from collusion with the financial sector⁷.

- 10 In addition to this “political” control of the business sector, the KMT exerted “economic” control by being a powerful economic actor itself. As there was no effective separation between party and state and especially between party property and state coffers, the KMT had a tremendous financial leverage it could use to attain its economic goals. It used its monopoly on vital inputs such as steel, petrochemicals and heavy machinery to build up “an array of satellite suppliers and subservient down-stream firms”⁸ that competed for contracts with public enterprises. Because they were exchangeable, they were discouraged from forming alliances that might have challenged KMT supremacy. In addition, a hierarchical system of industrial associations with compulsory membership gave the KMT further control over important business leaders. Naturally, some of the small-and-medium sized enterprises in the countryside escaped this kind of control, but their access to land and capital was severely restricted. This made sure that they did not expand unduly.
- 11 How did the KMT produce regime legitimacy despite widespread hostility by the native people? Again, the skilful handling of monetary resources coupled with balancing mechanisms, most notably local elections, provides much of the answer.
- 12 In the organisation of Taiwan’s local policy, local factions (*difang paixi*) are local-level clientelistic networks. Most of Taiwan’s counties (*xian*) and municipalities have two, some three local factions, which compete for local economic and power resources. Factions usually are held together by ties of blood, kinship and marriage, but also by interpersonal relationships⁹. The KMT made use of local factions basically by trading money for support via local-level elections. Getting elected at the local level was not very attractive in terms of political power, because local government was in the firm grip of the party state. Political office, however, granted access to local monopoly and oligopoly rights and “money machines” like the credit departments of the fishermen’s associations (*yuhui*), the water conservancy associations (*shuilihui*), and the farmer’s associations (*nonghui*)¹⁰. In addition, political protection of semi-legal or illegal projects such as brothels, gambling dens and karaoke bars guaranteed the local power-holders further resources.
- 13 The organisational capacity of the KMT, a tailor-made electoral system and its clientelistic relationship to the local factions made influence on electoral outcomes highly effective during authoritarianism. All that was required was the subdivision of an electoral district into as many parts as there were candidates, and ensure that each candidate received just the right number of votes¹¹. This was achieved with the help of vote-brokers (*zhuangjiao*)¹². In order to be successful in these elections, one usually had to be nominated by the KMT, who had the organisational means to coordinate votes and candidates, the financial means to co-finance the costly electoral campaigns, and the coercive means to deter non-authorized candidates from running. As a

consequence, candidates of the various local factions competed for nomination by the KMT, and local alliances against the KMT were highly unlikely unless the KMT disregarded the factions by filing its own candidates. This was backed up by the rigorous enforcement of a policy that forbade factions to conclude alliances beyond the county level¹³.

- 14 To summarise, the native population was mobilised by local politico-economic groups, which in turn received resources by the KMT. They were balanced against each other by means of local elections, in which they had to run as KMT-candidates. At the same time, these elections produced legitimacy for the regime, because they were reasonably competitive, and the KMT always won.

Democratisation and the increasing importance of “black gold”

- 15 In the course of Taiwan's democratic transition, the KMT's relationship to both major economic actors and local factions underwent massive changes. Economic and political liberalisation strengthened the hand of both the local factions and the business community, as they could now expand and form alliances. This turned the clientelistic relationship between them and the KMT (most of all its Lee Teng-hui- dominated “mainstream faction”, *zhuliupai*) into an interdependent one. Taiwan's “umbrella of authoritarianism” thus turned into a web of mutual dependencies.
- 16 In order to secure the business community's compliance, the KMT introduced new land-based economic rents such as construction projects and real-estate development, which became quickly linked to the blossoming financial sector. Meanwhile, a host of private enterprises that were held in an economic stranglehold during the authoritarian regime began to prosper. The lack of formal rules governing business behaviour on the one hand and political candidates' need for funding on the other made for strategic relationships between actors of the business community and politicians at all levels. With increased importance of the representative organs after democratisation, the number of candidates rose, as did campaign costs. This created incentives for business groups to sponsor candidates and in return receive political influence. Often businessmen sought political office themselves.
- 17 Local factions also became diversified both in their structure and in their sources of income. They could now form alliances. Land and real estate development became the main sources of rent-seeking. Many local factions started to become allied with the new financial groups, which had begun to mushroom since the 1980s, leading to a new typology of interest-based associations ranging from the “traditional” local faction to the nationwide financial group¹⁴. With elections for the central-level representative organs conducted, the door to central government was opened, and the Legislative Yuan became a major playing field for these associations. Their percentage among representatives increased as steadily as did corrupt practices in the representative organs¹⁵. Furthermore, political alliances with local factions were no longer limited to the KMT. The DPP's successful electoral performance in the 1997 county-level election had brought it into contact with local factions as well. This further strengthened them, because now they could play the parties and even factions within a party off against each other. However, as the DPP party centre did not have the financial means to sustain the factions in the way the KMT could, its contact with them took a different shape. DPP heavyweights supported local politicians by the promise of public construction projects or by visiting them in their home districts, thus boosting their image¹⁶.

- 18 Of course, DPP politicians were not free of the trappings of money and power. Some of them became involved in shady deals as well, and a number of the DPP's elected local deputies have been believed to be connected to the underworld¹⁷. "Some of the DPP's strongest vote-getters belonged to local factions; being affiliated with the opposition did not stop candidates from corralling *tiao-a-ka* (vote brokers), distributing patronage and buying votes"¹⁸. Equally, vote-buying in the DPP's primary elections has become an embarrassment for the party¹⁹. However, corruption and vote-buying in the DPP are by no means as systematic as in the KMT, and it is safe to say that they are not condoned by the party central.

1. Legal Revision proposed as part of the Ministry of Justice's "Action Programme to Sweep Out Black Gold"

Public Functionaries Election and Recall Law	<ul style="list-style-type: none"> includes primaries and elections for the heads and vice-heads of representative bodies into this law bars organised crime suspects from running in elections (in order to prevent them from gaining immunity) bars convicted criminals from running in elections
Civil Servant Services Act	<ul style="list-style-type: none"> forbids civil servants to accept gifts or donations
Public Functionary Assets Disclosure Law	<ul style="list-style-type: none"> requires government officials to put their assets into a trust, otherwise alteration of assets must be accounted for assets of spouse and children must also be accounted for
Money Laundering Control Act	<ul style="list-style-type: none"> deletes article encouraging confession by reduction of sentence requires financial institutions to report transactions exceeding a certain amount sets up a citizens' bank account database
Criminal Law	<ul style="list-style-type: none"> a third-time recidivist of crimes punishable with sentences of no less than five years imprisonment may be handed a double sentence doubles minimum time served to be eligible for parole to 30 years for regular convicts and 40 years for recidivists
Anti-Corruption Penal Statute	<ul style="list-style-type: none"> introduces presumption of corruption if public official's wealth exceeds income level confiscates funds and assets that public functionaries cannot account for

Sources: Republic of China, Ministry of Justice, Fawubu saochu heijin xingdong fang'an zhi jinxing qingxing ji xuxiao baogaobiao (Report Table of State of Implementation and Effects of the Ministry of Justice's Action Programme to Sweep Out Black Gold), <http://www.moj.gov.tw/chinese/d3_5_detail.aspx?jobtype=14&jobid=1300000002>, 2000, accessed March 2004; Republic of China, Ministry of Justice, Saochu heijin xingdong fangan houxu tuidong fang'an (Follow-up Programme to the Action Programme to Sweep Out Black Gold), <http://www.moj.gov.tw/chinese/d3_5_detail.aspx?jobtype=14&jobid=1300000002>, 2002, accessed March 2004; legal drafts.

- 19 This environment also paved the way for organised crime into the Legislative Yuan and local politics. First, the increase of crackdowns on vote-buying introduced crime groups as mediators because the high sentences for vote-buying deterred many traditional vote-brokers²⁰. Such elements also acted as bodyguards or thugs who intimidated or blackmailed opposition candidates for payment and political protection²¹. Evidently, once a local faction employed gangsters to combat political opponents by illegal means, the opposition faction was forced to follow suit. Second, gangsters who had made a fortune by dabbling in construction projects or illegal ventures became particularly vulnerable to extortion from their protectors in the political realm and to crackdowns against organised crime. In order to protect themselves, many gangsters ran for political office to gain immunity. In this way, gang leaders became conveners of the Police Administration Group (*jingzheng xiaozu*) in the local legislatures where they supervised the local police departments²². In the Legislative Yuan, legislators implicated in legal suits often sought a seat in the Judiciary Committee. Lo Fu-chu, the alleged leader of the Tiandaomeng (Heaven and Earth Society), one of the biggest crime syndicates in Taiwan, even served as one of the committee's three conveners²³. The *Shangye zhoubao* (Business Weekly) in 1999 reported that legislators with an organised

crime background exerted considerable influence in the Legislative Yuan by means of threats and terror against individual lawmakers, some of them even accompanied by gunmen disguised as assistants²⁴.

The clean-up efforts during the KMT era

- 20 Although the KMT's alliance on equal terms with local factions and moneyed interests enabled it to stay in power, the party had to pay a steep price for its coalitions. The quality of the political process worsened, and the general public's increasing dissatisfaction with money politics and organised crime influence on politics was accompanied with feelings of political inefficacy²⁵. Much blame for this was laid on the KMT²⁶.
- 21 Put differently, the costs for regime maintenance the KMT had to bear in the currency of legitimacy rose sharply. This probably had been foreseen in the party headquarters. Since the late 1960s, there had been efforts to prevent the KMT from too much dependence on societal forces that might later prove hard to hold in check. The failure of these policies can be explained neatly in institutionalist terms.
- 22 Reformers in the KMT soon found out that the costs of changing the rules of the political game were likely to surpass the costs of regime maintenance, which had the consequence that the KMT shifted from cause- to symptom-oriented policies in its fight against "black gold". More concretely, the Party mainstream might have realised that a full-fledged democratisation of the political system might result in either the subversion of the process by the still powerful conservative forces, or in bringing the DPP to power. At any rate, a far-reaching political system change was difficult given the harm that sweeping constitutional reforms, not to mention the passage of a new Constitution, might have done to the relations with mainland China.
- 23 The KMT chose regime maintenance. This, however, meant facing a dilemma: needing to limit the drain of legitimacy that resulted from its alliance with local factions and moneyed interests, while at the same time continuing to rely on this alliance. In a process of gradual learning, the KMT's policies thus shifted from attempts to free itself from local factions and moneyed interests to a mix of accommodation and selective persecution. However, the further the democratic transition progressed, the stronger the latter became as they could now expand and form alliances. Conversely, the organisational capacity of the KMT was severely weakened after the passing of its supreme leader Chiang Ching-kuo. The party was eventually torn apart by national-level factions fighting for predominance and local factions fighting for autonomy. Ultimately, no party faction could stay in power without the help of the groups the party initially sought to fight. The KMT was thus losing the fight against "black gold".
- 24 As early as 1968, the KMT started to phase out its relationship to local factions by gradually nominating party cadres instead of factional candidates for local elections. According to Chen Ming-tong, this strategy was quite successful until it backfired in 1977: "That year, the KMT lost four mayoral seats, 21 provincial assembly seats, and suffered the 'Chung Li incident'. This was an unprecedented setback for the KMT, which started the democratisation process in Taiwan"²⁷. As Chen Ming-tong has shown, this setback prompted the party to re-increase its reliance on local factions to deliver the vote, albeit with a different mechanism: from the early 1980s on, primary elections were held before local elections, forcing would-be candidates of local factions to seek KMT membership and compete with non-factional candidates for nomination. Again, the KMT overplayed its hand when it steeply increased the number of non-factional

candidates for the 1989 primary elections: in the mayoral, provincial assembly and Legislative Yuan elections that year it faced “unprecedented setbacks”²⁸. These setbacks marked the end of the KMT’s efforts to reign in the local factions. The split that ensued in the party after Chiang Ching-kuo’s death pitted Lee Teng-hui and his followers in the KMT (the so-called “mainstream faction”) against various hard-line factions. This struggle strengthened the hand of local factions and Taiwanese entrepreneurs when they became Lee’s partners in his quest for political dominance, providing them access to the apex of power. The “mainstream faction” became “in many respects, a collection of local factions”²⁹. This did not change during Lee’s presidency.

- 25 As the KMT could not reduce what after democratisation had become an outright dependence on local factions, it aimed at shoring up its legitimacy among the general public without having to break with them. A measure that would allow it to combat not the factions themselves but the most delegitimizing practice associated with them was to crack down on vote-buying. During the 1994 elections for county commissioner, the KMT government launched the biggest crackdown on vote-buying in its history. 257 were convicted, including about 30% of all county legislators and nearly every commissioner³⁰. This greatly alienated the local factions, and Chen Ming-tong indicates that there is a direct relationship between this crackdown and the KMT’s electoral disaster in the subsequent legislative elections. He also intimates that provincial governor and Lee’s rival James Soong used this alienation to shore up his own power base by strengthening his relationship to township- and village-based local factions. Using a loophole in the budgetary law, Soong toured the island for his re-election bid for provincial governor and showered more than 300 towns and villages with promises of local construction projects worth about NT\$80 billion³¹. Soong won the election with 56.22% of the votes. These experiences and the fact that it was virtually impossible to bring the indicted to justice³² might very well have decided the Lee government to refrain from further crackdowns.
- 26 Another measure the KMT took was crackdowns on organised crime. Again, party central found itself in a Catch-22 situation: some local-level KMT candidates (most of them from local factions) depended on organised crime elements during their electoral campaigns and often even after they took office. On the other hand, the general public grew increasingly concerned with the worsening public security situation caused by organised crime. As Tien Hung-mao put it: “The KMT is now in a no-win situation. Failure to prosecute the guilty parties would further the KMT’s image as a corrupt political machine. Successful prosecution, however, which may involve most city and county councils, could severely shake the KMT’s local foundations. Without the support of local factions and their controversial vote-catching practices, the party in power may face a stunning reduction in its reliable voter base”³³.
- 27 According to Chin Ko-lin, this dilemma forced the KMT administration to adopt the double-pronged strategy of selective persecution. These half-hearted attempts to combat organised crime did not solve the mafia problem, rather it worsened it.
- 28 The first major crackdown on organised crime was “Operation Cleansweep”. In the course of this operation, more than four thousand alleged underworld figures were arrested and many of them were sent to reform camps, only to be released four years later³⁴. As both Chao Yung-mao and Chin Ko-lin have pointed out, this crackdown had adverse consequences. Some gang leaders formed alliances when they served time

together, thus broadening the scope of individual crime groups. Further, after leaving prison, they had to wrest power back from their successors who had taken over following their arrest. This led to gang wars and the decline of the code of conduct that existed between these groups, increasing the violence within organised crime³⁵. In addition, in order to protect themselves, organised crime figures no longer relied solely on the protection of politicians, but sought political office themselves³⁶. The success of this and other, more small-scale sweeps is questionable, as one agent of the Ministry of Justice's Investigation Bureau acknowledges: "The crackdown of Yi-ching [Cleansweep] was a failure. We had to have more operations thereafter to round criminals up. If it was a success, why was it necessary to create more massive, anticrime operations? The more sweeps, the more *heidao* [mafia] figures. There has to be a rethink of our policy"³⁷. Accordingly, when Liao Cheng-hao, the major hand behind the post-Operation Cleansweep crackdowns suddenly resigned in 1998, the efforts to rein in organised crime subsided³⁸.

- 29 The description of the KMT's anti-"black gold" policies would be incomplete without mentioning the passage of several important laws. In 1993, the "Public Functionary Assets Disclosure Law" (*gongzhi ren yuan caichan shenbaofa*) was passed against the will of the KMT party centre, and was seen as a major step towards public accountability of government officials. The Disclosure Law stipulates that public functionaries must report their financial assets to the Control Yuan annually³⁹, which publishes these data⁴⁰.
- 30 However, the law has proved to be without teeth for three major reasons. First, the sanctions for transgression are a mere slap on the wrist. Refusal to be investigated is punished by NT\$20,000 to NT\$100,000⁴¹, and misreporting results in a fine of NT\$60,000 to NT\$300,000⁴². Next, since the Control Yuan lacks the resources to randomly review even one tenth of the reports filed, cheating on the reports involves little risk. Thus no disciplinary action is taken even in high profile cases involving billions of dollars and political heavyweights. They are merely given a fine. And seldom did the Control Yuan follow cases up to check for misreporting serving to cover up the breach of another law. Hence a further lack of efficiency and effectiveness of this particular law⁴³.
- 31 The Organised Crime Prevention Law was passed in 1996 to supplement the controversial Anti-Hoodlum Law, which was implemented in 1955, revised in 1981 and in parts declared unconstitutional in 1995⁴⁴. The law carries drastic fines for being involved in an organised crime group, and based on this law, 675 people were arrested in Operation Chih-ping, which followed Operation Cleansweep from August 1996 to June 1998. Of these 675, 162—of which 35 were local-level representatives—were sent to the Green Island correction facilities⁴⁵. Despite this achievement however, sloppy implementation meant its impact on mafia involvement in politics was negligible. Of these 35 representatives, eight were from the district/ city level. According to former Minister of Justice Liao Cheng-hao, the number of representatives at this level involved in organised crime stood at 260, about one-third of the total⁴⁶.
- 32 In January 2000, the Legislative Yuan passed the Witness Protection Law (*zhengren baohufa*), which had been drafted and introduced into the legislative process several times by the Ministry of Justice between 1996 and 1998. As the KMT lost the presidential elections only two months later, the law did not see implementation under this administration, but served as a basis for the new administration's anti-"black gold" policies.

The DPP programme to combat “black gold”

- 33 The DPP was the opposition that the aforementioned “umbrella structure of authoritarianism” sought to keep out of politics. Thus, making Taiwan’s politics fairer and more democratic had been on its campaign agenda since its foundation in 1986. Money politics and reliance on local factions did not only reduce the polity’s democratic quality, but gave the DPP a major political disadvantage because it had neither the organisational power nor the financial means to sustain such a network. I argue that for this reason it strove to change the rules of the political game by means of an ambitious programme. While the DPP did not lack the determination to realise this programme, its efforts were seriously hampered both by residues of authoritarianism in the bureaucracy inherited from the KMT era and its minority of seats in the Legislative Yuan. The latter was especially challenging, because institutional restructuring can hardly be achieved without making adjustments in the legal system.
- 34 In July 2000, two months after taking office, the DPP administration started to implement its “Programme for Sweeping away Organised Crime and Corruption” (*saochu heijin xingdong fangan*). Its sphere of action was to be three major fields: the fight against organised crime (*saohei*), counter-corruption measures (*yantan*) and investigations into election-related bribery (*chabai*). The programme combined efforts to enact new laws, revise existing ones, build anti-corruption organisations and was flanked by personnel reshuffles and the restructuring of government organisations⁴⁷.
- 35 The last point, no doubt the precondition on which the successful implementation of the whole programme rested, proved the hardest to realise. In his efforts to establish a highly centralised “anti-corruption administration”, the new Minister of Justice, Chen Ding-nan announced that he would merge the anti-corruption department of the Ministry’s Investigation Bureau (MJIB) with the Government Ethics Department into an “anti-corruption task force”⁴⁸. The MJIB, during the authoritarian era the backbone of the regime’s internal security apparatus, still wielded enough political clout to successfully resist this plan, testifying to the ongoing entrenchment of authoritarian institutions in Taiwan’s young democracy. The standoff between Chen Ding-nan and the MJIB only ended one year later when the Executive Yuan suddenly decided to replace the MJIB director⁴⁹. Although this improved co-operation, legislation on the envisioned “anti-corruption agency” with powers of search, seizure and arrest did not pass the Legislative Yuan.
- 36 The institutional overlap that complicates the fight against “black gold” is thus considerable. Responsibilities now fall on the MJIB, the Ministry of Justice Government Ethics Department and the Judicial Yuan, under whose auspices a “Black Gold Investigation Centre” (BGIC) was established. The BGIC, located in the High Court Prosecutor’s office, supervises four “special investigation sections” in Taipei, Taichung, Tainan and Kaohsiung. Combining prosecutors and investigators, and being authorised to issue orders to local district prosecutors, agents from the MJIB, military police officers and police officers, they are the cornerstone of anti-“black gold” investigation work.
- 37 Organisation-building was merely one pillar of the anti-“black gold” programme. Institution-building was another. That Taiwan had been an authoritarian state where party directives and informal arrangements were more important than legal stipulations meant that there was only a weak legal basis on which to build democratic institutions. This resulted in the problem that although Taiwan had formally become a

democracy, the underlying legal framework did not address practices incommensurate with democratic principles. Therefore, large-scale “loans” and “donations” to legislators, influence-peddling and abusing insider-information was clearly considered undemocratic, but they were not illegal⁵⁰. Building democratic institutions was further complicated by the problem that the Legislative Yuan was still dominated by interests representing the “old order”. Majorities for institutional reforms countering these interests were thus hard to come by. Nevertheless, the MOJ laid out an ambitious plan for legal reform.

- 38 Two prongs of this effort can be identified: first, the revision of existing laws such as the Public Functionaries Election and Recall Law, the Civil Servant Services Act, the Public Functionary Assets Disclosure Law, the Money Laundering Control Act and the Anti-Corruption Penal Statute (see Table 1).
- 39 The second prong is the drafting of new and important laws, such as the Political Party Law, the Statute Regarding the Disposition of Assets Improperly Obtained by Political Parties, the Lobby Law, the Political Contributions Law and the Conflict of Interest Prevention Law (Table 2).

2. Legal Revision proposed as part of the Ministry of Justice’s “Action Programme to Sweep Out Black Gold”

Political Party Law	<ul style="list-style-type: none"> • bans political parties from operating or investing in a profit-making enterprise • limits the financial sources of a party to membership fees, campaign donations, campaign subsidies or bank interest • bans parties from establishing branches on campuses, in government institutions, etc. • requires special committee to be set up for reviewing formation, dissolution or merging of parties • regulates access to media and government subsidies
Statute Regarding the Disposition of Assets Improperly Obtained by Political Parties	<ul style="list-style-type: none"> • empowers the government to investigate and confiscate assets that have been unlawfully obtained by political parties
Lobby Law	<ul style="list-style-type: none"> • requires lobbyists to apply to Ministry of Interior for lobbying permit, stating aim, time span and resources used • requires these data to be publicised by the lobbied party
Political Contributions Law (passed March 2004)	<ul style="list-style-type: none"> • forbids “quid pro quo” exchanges • requires special accounts to be set up for donations and made public • forbids party-run businesses donating to politicians • allows donations only to be received during election period (one year before election for presidential / vice-presidential candidates, ten months for legislative candidates) • sets ceiling for donations (max. NT\$6 million by an enterprise for various parties) • limits anonymous donations to maximum NT\$10,000, and the total amount of an anonymous donation to a maximum of one-tenth of the total donation
Political Contributions Law (passed July 2000)	<ul style="list-style-type: none"> • forbids public officials from using their position to achieve material or non-material profits for themselves or their “associates” (family and family-owned enterprises) • forbids public officials or associates maintaining business relationships with any official’s agency

Sources: *Ibid* table 1

- 40 The third pillar in the fight against “black gold” were the actual investigations conducted by the Black Gold Investigation Centre and other agencies, cracking down on vote-buying, bribery (especially in public construction projects), judicial fraud and organised crime. It was this “third pillar” that became especially prominent in the fight against “black gold” and was widely held responsible for producing the cleanest elections ever held in Taiwan. The Legislative Yuan elections in December 2001 were accompanied by massive campaigns aimed to dissuade the Taiwanese populace to accept money for their votes and by even more massive crackdowns on vote captains and the legislators who had hired them. The MOJ saw the number of people indicted to be the main indicator of their success. For example, the number of public representatives on all levels indicted for corruption and vote-buying rose from 152 in March 2001 to 317 in August 2001 and to 1,272 in March 2004. The total number of

people indicted was 11,097 at that time (out of 27,986 prosecuted). Of those put on trial, 1,641 were found “guilty”, and 1,534 “not guilty”⁵¹. It should be emphasised that those convicted were by no means all connected to KMT, PFP or independent legislators or bureaucratic personnel leaning towards these parties. In line with the above observation that the “black gold” problem also began to affect the DPP, some of the ruling party’s city- and county-level legislators were also among the convicted. The DPP centre’s actions were by no means one-sided and, considering the close scrutiny by the public and the opposition, probably could not have been.

Impact of the anti-“black gold” programme

- 41 Despite the fact that the frequent “sweeps” against vote-buying and organised crime were probably successful in bringing many of Taiwan’s most notorious gangsters to justice and serve as a deterrent against vote-buying, these figures raise the question if these successes were traded against the protection of human rights. Indeed, individual cases show that prosecutors were over-zealous in their fight against “black gold”, tapping phones without judicial supervision and conducting searches without warrants⁵². Also, the administration’s draft amendment to the Public Functionaries Election and Recall Law, which would bar organised crime suspects from running in elections, sparked considerable controversy. One reason is that a suspect would become a “political convict,” another is that this clause only applies to suspects of an “organised” criminal background. This raises definitional problems and discriminates against the former group.
- 42 Another indicator that could be used for determining the success of Chen Shui-bian’s crusade against corruption and vote-buying is the financial situation of the grassroots financial organisations which were identified as a major resource for corrupt local politicians. In July 2001, Chen Shui-bian vowed to close down, merge or have taken over by public banks the 35 most defunct of these organisations, among them 27 credit departments of farmers’ associations. In addition, the government earmarked NT\$140 billion as a “cleanup fund” to rid these organisations of their bad loans (which actually exceeded NT\$210 billion)⁵³. Again, the results were mixed. The overall percentage of these organisation’s overdue loans decreased significantly from an all-time high of 18.19% in June 2002 to 13.39% in January 2004. Most successful was the bailing out of the 48 local credit co-operatives, the overdue loans of which were halved from 13.08% to 6.94% during this period. However, not much ground was gained in the case of the credit departments of the 314 farmers’ and fishermen’s associations, the most important “money machines” for local politicians. Their overdue loans decreased a mere 3.73%, from 21.44% in June 2002 to 17.71% in January 2004. As for closures, mergers or takeovers, 13 credit co-operatives, 34 credit departments of farmers’ associations and two credit departments of fishermen’s associations were thus disposed of⁵⁴.
- 43 Again, success was mixed. This can hardly be blamed on the DPP administration, as all the drafts outlined above were introduced and frequently reintroduced for consideration in the Legislative Yuan. Most of them, however, were voted down by an alliance of KMT, PFP and independent legislators, who would face severe losses if the new regulations had been passed. Despite this, the Public Officials Conflict of Interest Prevention Law was passed on July 1st 2000, and the Political Contributions Law on March 18th 2004, only two days before the presidential election. Scandals, public

pressure and the KMT's struggle to portray itself as a clean party probably were major factors facilitating the passage of the Political Contributions Law.

- 44 Although the passage of these laws can be regarded as milestones in Taiwan's process of democratic consolidation, Taiwan still has a long way to go. Notably, the Political Party Law and the Lobby Law still await passage. But passage alone is not enough. Another problem has been the enforcement of these laws. Some laws only carry minor fines (such as the Assets Disclosure Law), some overlap (such as the five laws regulating the legislative process with the Conflict of Interest Prevention Law and, if passed, the Lobby Law), and some are not strictly enforced (as is the case with the Conflict of Interest Law, the Assets Disclosure Law and the Money Laundering Law). Reasons for these shortcomings are organisational overlaps, understaffing of the relevant agencies and small budget allocations⁵⁵. These problems can again be partly blamed on blockade politics in the legislature. Another part of the explanation rests on the fact that the new administration was not readily accepted by the subordinate bureaucratic staff, which could block important policies. Of course, the inexperience of the first-time administration was another factor leading to policy blunders⁵⁶.
- 45 However, as Shangmao Chen and Chengtian Kuo show, the influence of "black gold" on Taiwan's polity was significantly reduced simply because the new administration could not take the KMT's former position as a hub in the informal network. The large conglomerates' influence on politics was weakened as economic liberalisation subjected them to competition. One direct result was that many of these conglomerates, including those owned by the KMT, started to incur severe losses. Furthermore, the new administration replaced key personnel in state-owned enterprises and banks as well as in the bureaucracy, further weakening the old structures⁵⁷. Thus, the simple fact that the opposition had been able to wrest political power away from the KMT and that it was willing to play by the rules it had created has been a major factor helping to further clean politics.
- 46 Taiwan's authoritarian past has made the deepening of Taiwan's democracy extremely difficult. I have shown that informal arrangements incommensurate with democratic principles have not only persisted after democratisation, but have gone out of control. Although corruption and organised crime had existed before the 1990s, they became rampant when the KMT's "mainstream faction" utilised alliances with local factions, influential businesspeople and even organised criminals to defend themselves not only against the opposition without, but also that within their own party. This created a political environment where influence had to be bought and which undermined political accountability as well as economic efficiency.
- 47 The important continuity between the two administrations is that both aimed to fight the adverse consequences of these institutional arrangements. One symbolic illustration of this is that the Chen administration used the same name for its anti-"black gold" programme as the Lee administration had used for its rather unsystematic approach a few years ago. Despite the differences in content, the title "Programme for Sweeping away Organised Crime and Corruption" is not an invention of the DPP⁵⁸. A summary evaluation of this programme published in 1998, the "Sweeping Away Organised Crime and Corruption White Book" (*saohei baipishu*), was presented to presidential candidate Chen Shui-bian by former Minister of Justice Liao Cheng-hao in 1999⁵⁹. There have always been individuals and groups in the KMT who were sincere about fighting corruption⁶⁰. Conversely, under the DPP administration,

some of its local-level functionaries and representatives became involved in money politics as well. This shows that the difference between these two parties' anti-"black gold" policies probably stems not from differences in morality or their elites' political culture, but from the institutional setting that determines their spheres of action. The KMT had abandoned its reform efforts when it saw that the transaction costs an institutional overhaul incurred were very likely to supersede the costs of maintaining the current system, at least in the medium-term. Yet the DPP could not have taken over this system even if it had wanted to, so institutional change was the only sensible strategy to pursue.

- 48 Therefore, the major difference between the two administrations' anti-"black gold" policies was that the DPP had nothing to lose, but much to win from revamping the administrative, legal and financial apparatus and indiscriminately persecuting vote-buyers, organised criminals and corrupt politicians alike. Indeed, failure to do so might have catapulted it back into opposition. Even so, institutional and organisational change proved difficult to achieve. Accordingly, the DPP too had to rely more on symptom-oriented than on cause-oriented policies to prove its resolve, but here it achieved more than the KMT ever had. Important "big brothers" were arrested, others have fled the country, and vote-buying has decreased significantly. The bureaucracy has become more assertive towards the Legislative Yuan, and the KMT's big business cronies' political influence has been weakened.
- 49 These achievements, however, are not irreversible as long as the formal rules and regulations that structure Taiwan's politics remain incomplete, contradictory and partly dysfunctional. The DPP has not managed to make much headway here, partly because of its inexperience in administrative matters, but mostly because its hands were bound by a pan-blue dominated legislature. The recent presidential election has given the DPP the mandate to continue its reform policies, but the legislative election in December will decide if it is given the chance to really make a difference.

NOTES

1. According to Dahl, a liberal democracy needs: 1. the freedom to form and join organisations; 2. the freedom of expression; 3. the right to vote; 4. eligibility for public office; 5. the right of political leaders to compete for support and votes; 6. alternative sources of information; 7. free and fair elections; 8. institutions for making government policies to depend on votes and other expressions of preference. See Robert Dahl, *Polyarchy: Participation and Opposition*, New Haven and London, Yale University Press, 1971, p. 3. That Taiwan has been a liberal democracy since the 1992 Legislative Yuan elections is contested. According to Shelley Rigger, Taiwan became a democracy only in the mid-nineties, when alternative sources of information supplemented the island's three state-linked broadcast stations. See Shelley Rigger, *Politics in Taiwan: Voting for Democracy*, London, New York, Routledge, 1999, pp. 195-196, fn. 13.

2. Chen Tung-sheng, *Jinquan chengshi: difang paixi, caituan yu Taipei duhui fazhan de shehuixue fenxi* (City of Money Power: A Sociological Analysis of Local Factions, Financial Groups, and Taipei Metropolitan Development), Taipei, Juliu, 1995.
3. Chen Ming-tung, *Paixi zhengzhi yu Taiwan zhengzhi bianqian* (Factional Politics and Taiwan's Political Development), Taipei, Yuedan, 1995.
4. See Chen Ming-tong, *Paixi zhengzhi* and Joseph Bosco, "Taiwan Factions: Guanxi, Patronage, and the State in Local Politics", in Murray A. Rubinstein (ed.), *The Other Taiwan: 1945 to the Present*, Armonk, M.E. Sharpe, 1994, pp. 114-144. In the following discussions, "KMT" refers to what Steven J. Hood has identified as "the Party Mainstream", a loose group of party cadres with membership in local factions and in support of Lee Teng-hui (see Steven J. Hood, *The Kuomintang and the Democratization of Taiwan*, Boulder, Westview, 1997, p. 110). The KMT has never been a monolithic party.
5. Lin Chia-lung, "Jieshi Taiwan de Minzhuhua" (Explaining Taiwan's Democratisation), in Wang Chen-huan et al. (eds.), *Liang'an dangguo tizhi yu minzhu fazhan* (Party-State Systems on Both Sides of the Taiwan Strait and Democratic Development), Taipei, Yuedan, 1999, p. 102.
6. William Case, *Politics in Southeast Asia: Democracy or Less*, London, New York, Routledge, 2003, pp. 245-264.
7. Robert Wade, "State Intervention in 'Outward- Looking' Development: Neoclassical Theory and Taiwanese Practice", in Gordon White (ed.), *Developmental States in East Asia*, London, St Martin's, 1988, pp. 30-67.
8. Chu Yun-han, *Crafting Democracy in Taiwan*, Taipei, Institute for National Policy Research, 1992, p. 134.
9. Chen Mingtong, *Paixi zhengzhi*, op. cit., pp. 16-18.
10. Chen Ming-tung and Chu Yun-han, "Quyuxing lianhe duzhan jingji, difang paixi yu shengyiyuan xuanju: yi xiang shengyiyuan houxuanren beijing ciliao de fenxi, 1950-1986" (Regional Oligopolistic Economy, Local Factions, and Provincial Assembly Elections: An Analysis of the Socio-economic Background of Candidates, 1950-1986), *Proceedings of the National Science Council, Social Sciences and Humanities*, Vol. 2, No. 1, 1992, pp. 89-90.
11. For a detailed and first-hand description of this process see Chan Pi-hsia, *Maipiao canhuilu* (Confession of Vote-Buying), Taipei, Shangzhou, 1999.
12. Shelley Rigger, *Machine Politics in the New Taiwan: Institutional Reform and Electoral Strategy in the Republic of China on Taiwan*, unpublished PhD dissertation, Harvard University, 1994, pp. 94-98 and pp. 167-172.
13. Joseph Bosco, *Taiwan Factions*, op. cit., p. 122.
14. Chen Tung-sheng, *Jinquan chengshi*, op. cit., pp.36-38.
15. *Xin xinwen* (The Journalist), No. 319, p. 53.
16. Joseph Bosco, *Taiwan Factions*, op. cit., p. 138.
17. Chin Ko-lin, *Heijin: Organized Crime, Business, and Politics in Taiwan*, Armonk, M.E. Sharpe, 2003, p. 154.
18. Shelley Rigger, *Politics in Taiwan*, op. cit., p. 148.
19. For a recent example, see the *Taipei Times* (Internet Edition), May 25th 2004.
20. Liao Chung-hsiung, *Taiwan difang paixi de xingcheng fazhan yu zhibian* (Origins, Development and Qualitative Change of Taiwan's Local Factions), Taipei, Yunchen, 1997, pp. 180-181.
21. Chao Yung-mao, *Taiwan difang zhengzhi de bianqian yu tezhi* (Change and Characteristics of Taiwan's Local Politics), Taipei, Hanlu, 1997, p. 290.

22. Liao Chung-hsiung, *Taiwan difang paixi*, *op. cit.*, pp. 179-180.
23. *Lianhe bao* (United Daily News), Internet edition, September 22nd 2000.
24. *Shangye zhoubao* (Business Weekly), Internet edition, No. 605, 2000.
25. See for example Huang Kuang-kuo, "Tanwu wenti" (The Problem of Corruption), in Yang Kuo-chü and Yeh Chi-cheng (eds.), *Taiwan de shehui wenti* (Taiwan's Social Problems), Taipei, Juliu, 1991, pp. 485-486; *Ershiyi shiji jijinhui* (21st Century Foundation), *Taiwanren kan zhengzhi* (How the Taiwanese See Politics), Taipei, Zhonghua weixinsuo, 1998, p. 54 and p. 145; Zhongyang yanjiuyuan minzuxue yanjiusuo (*Academica Sinica*, Department of Ethnology), "Taiwan shehui bianqian jiben diaocha jihua: di san qi di yi ci diaocha jihua zhixing baogao" (Taiwan's Social Changes Basic Survey Program: First Executive Report in the Third Period), 1995, <http://140.109.196.210/sc1/download/84q.pdf>, accessed May 2002, 112-113; Chang Yu-tzung, *Wenhua bianqian yu minzhu gonggu: Taiwan minzhuhua jingyan de bijiaoguan* (Culture Shift and Democratic Consolidation: Taiwanese Democratisation in Comparative Perspective), Unpublished Dissertation, National Chengchi University, 2000, p. 60 and p. 69.
26. Zhongyang yanjiuyuan minzuxue yanjiusuo, "Taiwan shehui bianqian jiben diaocha jihua", p. 112.
27. Chen Ming-tong, "Local Factions and Elections in Taiwan's Democratization", in Tien Hung-mao (ed.), *Taiwan's Electoral Politics and Democratic Transition: Riding the Third Wave*, Armonk, London, M.E. Sharpe, 1996, p. 180.
28. *Ibid.*, pp. 181-182.
29. Steven J. Hood, *The Kuomintang and the Democratization of Taiwan*, *op. cit.*, p. 110.
30. Chen Ming-tong, *Paixi zhengzhi*, *op. cit.*, pp. 250-253.
31. *Ibid.*, pp. 254-55.
32. The indicted politicians of course enjoyed immunity from persecution. As even a convicted criminal can run for political office, it is possible to extend immunity infinitely. A prominent example is former Taichung county council speaker Yen Ching-piao who was sentenced to 12 years in prison because of organised crime activities. While in prison, he became a candidate for the 2001 legislative elections and eventually won a seat.
33. Quoted in Chin Ko-lin, *Heijin*, *op. cit.*, pp. 191-192.
34. *Ibid.*, pp. 168-170.
35. Chao Yung-mao, *Taiwan difang zhengzhi*, *op. cit.*, p. 281; Chin Ko-lin, *Heijin*, *op. cit.*, pp. 169-170.
36. Liao Chung-hsiung, *Taiwan difang paixi*, *op. cit.*, pp. 179-180.
37. Quoted in Chin Ko-lin, *Heijin*, *op. cit.*, p. 170.
38. *Ibid.*, p. 178.
39. *Gongzhi renyuan caichan shenbaofa*, Art. 3.
40. *Gongzhi renyuan caichan shenbaofa*, Art. 6.
41. *Gongzhi renyuan caichan shenbaofa*, Art. 10.
42. *Gongzhi renyuan caichan shenbaofa*, Art. 11.
43. *Taipei Times*, Internet edition, July 12th 2001.
44. Chin Ko-lin, *Heijin*, *op. cit.*, p. 263.
45. *Zhongguo Shibao* (China Times), Internet edition, November 18th 1998.
46. *Zhongguo Shibao*, Internet edition, May 25th 1997.
47. Republic of China, Ministry of Justice, *Fawubu saochu heijin xingdong fang'an zhi jinxing qingxing ji xuxiao baogaobiao* (Report Table of State of Implementation and Effects of the Ministry of Justice's Action Programme to Sweep Out Black Gold), <<http://>

www.moj.gov.tw/chinese/d3_5_detail.aspx?jobtype=14&jobid=1300000002>, 2000, accessed March 2004; Republic of China, Ministry of Justice, *Saochu heijin xingdong fang'an houxu tuidong fangan* (Follow-up Programme to the Action Programme to Sweep Out Black Gold), <http://www.moj.gov.tw/chinese/d3_5_detail.aspx?jobtype=14&jobid=1300000002>, 2002, accessed March 2004.

48. *Taipei Times*, Internet edition, May 30th 2000.

49. *Taipei Times*, Internet edition, August 5th 2001.

50. Christian Göbel, "Towards a Consolidated Democracy? Informal and Formal Institutions in Taiwan's Political Process", Paper prepared for the APSA Annual Meeting, San Francisco, August 30th - September 2nd 2001.

51. Republic of China, Ministry of Justice, *Fawubu suo shu ge difang fayuan jianchashu banli saohui, yantan, chahui anjian tongji zhoubaobiao* (Periodic Statistical Table of Anti-Black Gold, Serious Corruption, and Investigation into Vote-Buying Cases Handled By The Local Courts' Prosecutor's Offices Subordinate to The Ministry of Justice), <http://www.moj.gov.tw/chinese/d3_5_detail.aspx?jobid=1300000423&jobtype=14>, 2004, accessed March 2004.

52. *The China Post*, Internet edition, October 25th 2001.

53. *Taipei Times*, Internet edition, July 13th 2001.

54. Republic of China, Ministry of Finance, Bureau of Monetary Affairs, *Jinrong jigou yufang bilü* (Ratio of Financial Organizations' Overdue Loans), <<http://www.boma.gov.tw/files/sta/index-10.xls>>, 2004, accessed March 2004.

55. Christian Göbel, "Towards a Consolidated Democracy?", *op. cit.*

56. Brian Kennedy, "A Report Card on Chen's First Year", *Taipei Times*, Internet edition, May 22nd 2001.

57. Chen Shangmao and Kuo Chengtian, "The Growth of Casino Capitalism: Mixed Reforms of the Financial Institutions," Paper prepared for the Conference "Challenges to Taiwan's Democracy in the Post-Hegemonic Era", Hoover Institution, Stanford, October 31st–November 1st 2002.

58. See *Zhongguo shibao*, Internet edition, November 18th 1998.

59. *Zhongguo shibao*, Internet edition, November 16th 1999.

60. Despite his involvement with local factions and even gangsters, Lee Teng-hui might easily have been one of them. According to Lee himself, the aim of establishing a healthy democracy in Taiwan justified almost every means, including undemocratic ones. He also saw no contradiction in fighting for democracy and blackmailing political opponents into submission with confidential material collected by his spies (see Lee Teng-hui, *Taiwan de zhuzhang* [With the People Always in My Heart], Taipei, Yuanliu, 1999, p. 93). Any normative assessment of Lee's political legacy or even his moral integrity must first approach the ethical dilemma if and to what degree democratic ends justify undemocratic means.

ABSTRACTS

This article analyses the policies of the Kuomintang (KMT) and the Democratic Progressive Party (DPP) administration's policies to fight corruption, organised crime and vote-buying from two different perspectives. The first looks at policy, examining formulation, implementation and the impact of the most relevant measures taken. The other is an institutionalist perspective, explaining how constraints have limited the relevant actors' scope of action, resulting in outcomes often not matching those intended.